K

1946

File No. Mmis Dist 11

Legal Department

B BRANCH

Subject:— Rules and Notifications under the Bombay District Municipal Act, 1901

B 2-1

File No. Mmis Distt. 11/46

Gen. 194 e.

Office of the R.L.A.

By virtue of the provisions contained in section 69 of the Bombay Municipal Boroughs Act, 1925 a borough municipality is liable to pay for the maintenance, treatment and other necessary expenses of any person undergoing anti-rabic treatment as an indigent person in any institution declared by Government suitable for such purpose at such rates and subject to such conditions as the Government may be general or special order prescribe, provided such person, previous to his admission in the institution, has been resident in the municipal borough for at least one year. Similarly under section 50(h) of the Bombay Local Boards Act, 1923 , a local board is liable to pay the expenses of maintenance and treatment and other necessary expenses of persons undergoing anti-rabic treatment as indigent persons in such institutions at such rates and subject to such conditions as the Government may, by general or special order direct. In the absence of similar provisions e in the City of Bombay Municipal Act, 1888, the Bombay District Municipal Act, 1901, and the Cantonments Act, 1924, it will not be obligatory on the Bombay Municipality, a District Municipality or a Cantonment Board to pay expenses for the maintenance and treatment of its indigent persons undergoing anti-rabic treatment in the institution declared by Government to be suitable for such purpose. The proposed rule in so far as it includes indigent persons not resident in the municipal borough for at least one year and compels the Bombay Municipality, the District Municipalities and Cantonment Board to make payments for the treatment of its indigent persons, would be out of order. There would however, be no objection to recovering from those bodies expenses for the maintenance and treatment of its indigent persons at such rates and subject to such conditions as may be lawfully agreed to by them.

Id/- P.N.Moos
5-1-46

Remembrancer of Legal Affairs.

J.R. to G.D.No. 98 dated the 7th January 1946.
S.A.R./ 13-7

Pen B Municipality.

Government of Bombay.
General Department.
Resolution No. 5617/33.

Bombay Castle, June 1946.

O. R. D E R.

Whereas as a result of party factions and personal animosities prevailing in the Municipality of Pen (hereinafter referred to as "the Municipality") and the lack of confidence of the majority party in the President of the Municipality, fourteen out of the fifteen councillors of the Municipality resigned their office in or about January 1946;

And Whereas the ~~majority~~ majority party refused to contest the by-elections thereupon ordered by the Collector of Kolaba with the result that only four nominations for the fourteen seats were received and all the four persons declared duly elected happened to belonged to the President's party;

And Whereas it is not considered practicable to resort to nominations for the purpose of filling the remaining ten vacancies without serious detriment to the municipal administrations;

And Whereas the depleted membership of the Municipality has resulted in a deadlock gravely affecting the smooth and efficient working of the municipal administration;

And Whereas in the opinion of the Government of Bombay the Municipality, as at present constituted, is not competent to perform the duties imposed upon it by or under the Bombay District Municipal Act, 1901 (Bom III of 1901) or otherwise by a law;

Now, therefore, in exercise of the powers conferred by

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sub-section (1) of section 179 of the said Act, the Government of Bombay is pleased to declared the Municipality to be incompetenet to perform the duties imposed upon it by or under the said Act or otherwise by law and to direct that it shall be superseded with effect from the date of the publication of this Order in the Official Gazette up to the 31st May of January 1947 inclusive.

2. The Commissioner, Southern Division, should be requested to take steps under clause (b) of sub-section (3) of section 179 of the said Act to appoint a person or persons to exercise the epowers and perform the duties of the superseded Municipality.

3. This Order shall be publishedin the Bombay Government Gazette.

By order of the Governor of Bombay,

Under Secretary to Government.

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A revised draft Order is sent herewith.

Sd/-P.M.Moos
8-6-46

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U.R. to G.D.,No. 4252, dated the 10th June 1946.

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NOTIFICATION.

Home Department ,
Bombay Castle, July 1946.

Bombay District Municipal Act, 1901.

No. .- In exercise of the powers conferred by section 56 of the Bombay District Municipal Act, 1901 (Bom. III of 1901) the Government of Bombay is pleased to direct that appeals against any notice of demand issued under sub-section (3) of section 52 of the said Act by the Municipality of Ghatkopar-Kirol or Juhu shall be heard by the following Magistrates/Bench of Magistrates, namely:-

[Here specify the Magistrates or the Bench of Magistrates as the case may be]

By order of the Governor of Bombay

Secretary to Government.

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The Home Department has not taken into consideration the fact that in the areas under part II of the Schedule A to the greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act. 1945. there are three Borough Municipalities namely. Bandra. Parle-Andheri. Kurla. which are governed by the Bombay Municipal Boroughs Act. 1925. and two district municipalities namely. Ghatkopar-Kirol and Juhu. which are governed by the Bombay District Municipal Act. 1901. Section 56 of the Bombay District Municipal Act. 1901. provides that appeals against any notice of demand issued under sub-section (3) of section 52 may be made to any Magistrate or Bench of Magistrates by wh whom under the directions of the provincial Government or of the District Magistrate. such class of cases is to be tried. The words "District Magistrate" do not correspond to the Chief Presidency Magistrate and therefore it would not be competent for the Chief Presidency Magistrate to issue any directions under section 56. But under that section it would be open to the Provincial Government to issue such directions. A revised notification in place of the one at p. 13 ante is accordingly sent herewith.

No such powers. however. can be exercised by the Provincial Government under the corresponding section 110 of the Bombay Municipal Boroughs Act. 1925. as the section does not empower the Provincial Government to exercise such powers. A notification in respect of the municipal Boroughs of Bandra. Parle. Andheri and Kurla cannot therefore be issued under section 110 of the Act as proposed unless that section is amended so as to empower the Chief Presidency Magistrate to exercise the power now exercisable by the District Magistrate (See R.L.A.'s opinion No. 4687- dated 29th June 1946.). Id/-P.N.Moos

Remembrancer of Legal Affairs.

U.R. to H.D.No. 5036, dated the 16th July 1946. S.A.E.